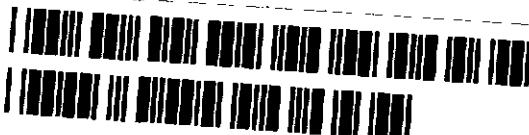


01  
02       FILED           ENTERED  
03       LODGED           RECEIVED  
04       OCT 16 2007  
05       BY           AT SEATTLE  
06       CLERK U.S. DISTRICT COURT  
07       WESTERN DISTRICT OF WASHINGTON   DEPUTY



04-CV-01289-ORD

06                   UNITED STATES DISTRICT COURT  
07                   WESTERN DISTRICT OF WASHINGTON  
08                   AT SEATTLE

09       LEON EUGENE MILLER,                   )   CASE NO. C04-1289-MJP  
10    )  
11                   Petitioner,                   )  
12    )  
13                   v.                              )   ORDER GRANTING § 2254 PETITION  
14    )  
15       GARY FLEMING,                            )  
16    )  
17                   Respondent.                   )  
18    )

19       The Court, having reviewed petitioner's petition for a writ of habeas corpus pursuant to  
20       28 U.S.C. § 2254, the supplemental briefs submitted by the parties, the Report and  
21       Recommendation of the Honorable Mary Alice Theiler, United States Magistrate Judge, objections  
22       thereto, and the balance of the record, does hereby find and ORDER:

19           (1)   The Court adopts the Report and Recommendation;  
20           (2)   Petitioner's petition for a writ of habeas corpus (Dkt. #4) is GRANTED.

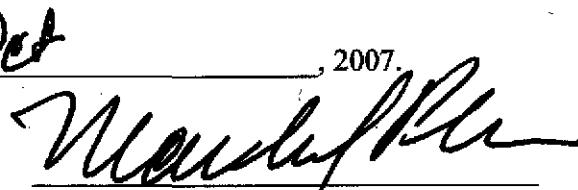
21       Petitioner's conviction in Spokane County Superior Court Case No. 00-1-01469-5  
22       is VACATED; and

23       ///

24                   ORDER GRANTING § 2254 PETITION  
25                   PAGE -1

01 (3) The Clerk is directed to send a copy of this Order to all counsel of record and to  
02 Judge Theiler.

03 DATED this 15 day of Oct, 2007.



04  
05 MARSHA J. PECHMAN  
06 United States District Judge  
07  
08  
09  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22